

LAWRENCE SCHWIGER,)	
)	
Petitioner,)	3:07-cv-00382-LRH-RAM
)	
vs.)	
)	
JACK PALMER, et al.,)	ORDER
)	
)	
Respondents.)	
	/	

Petitioner brings the motion to vacate judgment pursuant to Rule 60(b) of the Federal Rules of Civil Procedure. Pursuant to Fed. R. Civ. P. 60(b), the court may relieve a party from a final judgment or order for the following reasons:

(1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59(b); (3) fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party; (4) the judgment is void; (5) the judgment has been satisfied, released, or discharged, or a prior judgment upon which it is based has been reversed

1 or otherwise vacated, or it is no longer equitable that the judgment should
2 have prospective application; or (6) any other reason justifying relief
from the operation of the judgment.

3 A motion under Rule 60(b) must be made within a “reasonable time.” Fed. R. Civ. P. 60(c)(1).
4 Moreover, a motion for relief that is based on mistake, newly discovered evidence, or fraud (Fed. R.
5 Civ. P. 60(b)(1-3), must be brought within one year of final judgment. Fed. R. Civ. P. 60(c)(1).

6 The instant case has been closed since May 22, 2008. (ECF No. 12). Petitioner waited until
7 October 6, 2010, two and one half years later, to file his motion. (ECF. No. 18). Petitioner seeks relief
8 from final judgment based on Rule 60(b)(1) (mistake) and 60(b)(6) (any other reason that justifies
9 relief). Petitioner’s motion is untimely, and is denied on that basis. Fed. R. Civ. P. 60(c)(1); *see*
10 *Ashford v. Steuart*, 657 F.2d 1053, 1055 (9th Cir. 1981) (“reasonable” amount of time is something less
11 than the one-year standard applied to motions brought under Fed. R. Civ. P. 60(b)(1-3)).

12 **IT IS THEREFORE ORDERED** that petitioner’s motion for reconsideration and to re-open
13 the instant action (ECF No. 18) is **DENIED**.

14 Dated this 5th day of February, 2011.

15
16
17


18
19
20
21
22
23
24
25
26
27
28

LARRY R. HICKS
UNITED STATES DISTRICT JUDGE